

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Case No. 08-Cr-53

EMANUEL PRINCE,

Defendant-Movant.

DECISION AND ORDER

Pro se Movant Emanuel Prince filed a letter in his criminal case. Relying on *Johnson v. United States*, 135 S.Ct. 2551 (2015), he posits that his sentence may have been enhanced by applying USSG § 4B1.1's residual clause with respect to his 1996 conviction for being a party to the crime of armed robbery and, if so, he may be entitled to a reduction of his sentence.

District courts generally lack authority to reduce prison sentences long after their imposition. *See Romandine v. United States*, 206 F.3d 731, 735 (7th Cir. 2000). However, federal prisoners may, in some circumstances, challenge their sentences under 28 U.S.C. § 2255.

In order to consider Prince's request for sentence reduction, the Court would have to re-characterize the request as a motion for relief under 28 U.S.C. § 2255. Such a motions is filed as a civil case.

However, the Court must warn Prince that such recharacterization

means any subsequent § 2255 motion will be subject to the restrictions on “second or successive” motions, and the Court must provide him with an opportunity to withdraw or to amend the filing. *See Castro v. United States*, 540 U.S. 375, 382-83 (2003); *Williams v. United States*, 366 F.3d 438, 438 (7th Cir. 2004); *Henderson v. United States*, 264 F.3d 709, 711 (7th Cir. 2001). Prince is advised that if he chooses to pursue § 2255 relief, he must present all the grounds he believes he has in that motion. Otherwise, he may be precluded from raising them in a later § 2255 motion.

Prince must also use this District’s § 2255 form for his motion. *See* Civil L.R. 9(a)(1) (E.D. Wis.). A copy of the form is enclosed with Prince’s copy of this Decision and Order.

Based on the foregoing, by the stated deadline, Prince must either withdraw his request for sentence reduction or consent to the recharacterization of his request as a motion for § 2255 relief by filing his request on the proper form. In that motion, Prince may clarify his request for relief and/or add any other arguments or grounds for collateral relief so that the motion contains all the § 2255 claims Prince believes he has.


NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:

No later than August 8, 2016, Prince must either file a statement

withdrawing his request for sentencing relief or file a § 2255 motion on the proper form. Such motion may clarify his request for relief and/or add any other arguments or grounds for collateral relief.

Dated at Milwaukee, Wisconsin, this 7th day of July, 2016.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge